UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

JONES & CARTER, INC./ COTTON SURVEYING CO.

and

Case 16-CA-27969

LYNDA TEARE

ORDER

The petition to revoke subpoenas ad testificandum A-857461 and A-857462, addressed to employees Tammie Janik and Megan Jordan, respectively, is denied.¹

The Petitioner, Jones & Carter Inc./Cotton Surveying Co., lacks standing to file a petition to revoke subpoenas that are addressed to third parties except if it asserts that the requested information is protected by a privilege or a right of privacy.² Here, although counsel for the Petitioner also represents the subpoenaed employees, the petition was filed by the Petitioner, not by the subpoenaed employees, and the Petitioner has failed to show that it has standing to challenge the subpoenas.³

¹ The Region indicated that it has withdrawn subpoenas A-857458, A-857459, and A-857460. Accordingly, the petition to revoke is moot with respect to these subpoenas. ² "Ordinarily a party has no standing to seek to quash a subpoena issued to someone who is not a party to the action unless the party claims some personal right or privilege with regard to the documents sought." *In re Grand Jury Subpoena John Doe, No. 05GJ1318*, 584 F.3d 175, 184 n. 14 (4th Cir. 2009) citing 9A Wright & Miller, *Federal Practice and Procedure* §2459 (1995).

³ Chairman Pearce would additionally deny the petition to revoke on the merits. In his view, the subpoenas seek information relevant to the matters under investigation and describe with sufficient particularity the evidence sought, as required by Sec. 11(1) of the Act and Sec. 102.31(b) of the Board's Rules and Regulations. Further, he finds that the Petitioner has failed to establish any other legal basis for revoking the subpoenas. See generally *NLRB v. North Bay Plumbing, Inc.* 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

The Petitioner seeks revocation "[t]o the extent the Subpoenas seek information subject to the attorney-client privilege and work product," but does not provide any specific argument supporting its claim. The Petitioner's blanket assertion of attorney-

Dated, Washington, D.C., October 20, 2011.

MARK GASTON PEARCE, CHAIRMAN

CRAIG BECKER, MEMBER

BRIAN E. HAYES, MEMBER

client privilege is insufficient to demonstrate that the subpoenas seek privileged information.